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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/560,918

12/16/2005

Matthew Baker

MER-142

1856

2387 7590 11/23/2007  
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EXAMINER

CARLSON, KAREN C

ART UNIT

PAPER NUMBER

1656

MAIL DATE

DELIVERY MODE

11/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/560,918

Applicant(s)

BAKER ET AL.

Examiner

Karen Cochrane Carlson, Ph.D.

Art Unit

1656

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9, 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

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This Office Action is in response to the after-final amendment filed November 13, 2007.

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, **the finality of that action is withdrawn.**

Claims 1-8 and 10-16 have been cancelled. Claims 9 and 17 are currently under examination.

Benefit of priority is to June 26, 2003.

**Withdrawal of Objections and Rejections:**

The objection to the disclosure is withdrawn.

The rejection of Claims 9 and 17 under 35 U.S.C. 102(b) as being anticipated by Krstenansky et al. (January 29, 1992; EP 0 468 448 A2) is withdrawn. Applicants point out that Krstenansky et al. teach TPKPQSHNDGD while the Examiner mistakenly identified Gln (Q) as the single letter code for Glu (E). The Examiner apologizes for the error in translation to single letter codes.

The rejection of Claim 9 under 35 U.S.C. 102(b) as being anticipated by Maraganore et al. (USP 5,256,559 issued October 28, 1993) is withdrawn. Applicants point out that Maraganore et al. teach VTGEGTPKPQSHNDGD while the Examiner mistakenly identified Gln (Q) as the single letter code for Glu (E). The Examiner apologizes for the error in translation to single letter codes.

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**New Rejections:**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Tolstoshev et al. (USP 5,705,355, issued January 6, 1998).

In Fig 2(d) Tolstoshev et al. teach the 12 amino acid sequence QCVTGEGTPKPE. See also col. 11, lines 24+.

Therefore, Tolstoshev et al. teach a peptide consisting of at least 9 consecutive amino acid residues of SEQ ID NO: 1 (**Claim 9**).

Claims 9 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Schlaeppli et al. (1990; Preparation of monoclonal antibodies to hirudin and hirudin peptides. European Journal of Biochemistry 188: 463: 470).

At page 464, left col., line 3, Schlaeppli et al. teach that a peptide consisting of amino acid residues 29-38 of rHV1 was synthesized. At page 465, left col., about half way down para. 2, this peptide was placed in standard solutions and used in competitive ELISA assays – see also Table 1. From Schlaeppli et al. page 463 para. 1 wherein leech *Hirudo medicinalis* hirudin variant is taught and from instant SEQ ID NO: 3 depicting this variant, the sequence of peptide 29-38 is Ile-Leu-Gly-Ser-Asp-Gly-Glu-Lys-Asn-Gln, or ILGSDGEKNQ.

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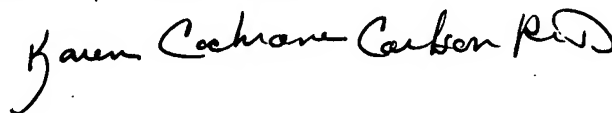
Therefore, Schlaeppi et al. teach a peptide consisting of at least 10 amino acid residues of SEQ ID NO: 1 (**Claim 9**). This peptide was placed into a pharmaceutical composition as a standard solution (**Claim 17**).

No Claims are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen Cochrane Carlson, Ph.D. whose telephone number is 571-272-0946. The examiner can normally be reached on 7:00 AM - 4:00 PM, off alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



KAREN COCHRANE CARLSON, PH.D.  
PRIMARY EXAMINER